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Supreme Court
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CHARLES ELMORE

Nos. 577-581, 585-587

In the Supreme Court of the United States

OCTOBER TERM, 1935

RICKEET RICE MILLS, INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

A. B. DORE, PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

UNITED RICE MILLING PRODUCTS CO., INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

BATON ROUGE RICE MILL, INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

T. SIMON, PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

LEVY RICE MILLING CO., INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

FARMERS RICE MILLING CO., INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

NOBLE-TROTTER RICE MILLING CO., INC., PETITIONER

v.

RUFUS W. FONTENOT, INDIVIDUALLY AND AS ACTING UNITED STATES COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF LOUISIANA

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

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PART A

AGRICULTURAL ADJUSTMENT ACT, C. 25, 48 STAT. 31, AS AMENDED, AS OF AUGUST 24, 1935[1]

AN ACT

To relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AGRICULTURAL ADJUSTMENT

DECLARATION OF EMERGENCY

That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously im-

[1] Throughout this document italics are used to indicate matter added by the 74th Congress by way of amendment to the Agricultural Adjustment Act, as previously amended. In instances where the language was stricken or changed, heavy black brackets are used to indicate the deleted matter.

paired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this Act. (U. S. C., Title 7, Sec. 601.)

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1) [To] *Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to* establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period; *and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period.* The base period in the case of all agricultural commodities except tobacco *and potatoes* shall be the prewar period, August 1909–July 1914. In the

case of tobacco *and potatoes*,[2] the base period shall be the postwar period, August 1919–July 1929.

[(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914.]

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.[3] (U. S. C., Title 7, Sec. 602.)

* * * * *

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[2] As amended by Sec. 1 (a) and Sec. 62 of Public No. 320, 74th Cong., 1st Sess., approved August 24, 1935, entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes." Sec. 62 adds the words " and potatoes."

[3] As amended by Sec. 1 (b) of Public No. 320, 74th Cong., 1st Sess.

PART 2—COMMODITY BENEFITS

GENERAL POWERS

SEC. 8. [In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments;[1] and, in the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933–1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor-stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, to make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed,

[1] The remainder of this sentence was added by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 14.

to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane. *In the case of rice, the Secretary, in exercising the discretion conferred upon him by this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to this section, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of the Act, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.*[5] Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection

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[5] This amendment was made by Sec. 7 of Public No. 20, 74th Cong., 1st Sess., approved March 18, 1935, but this entire subsection (1) was stricken out by Sec. 2 of Public No. 320, 74th Cong., 1st Sess., and subsections (1) to (9), inclusive, were inserted in lieu thereof.

and sealing, but no deduction may be made for interest.]

(1) Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation

under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

* * * * *

(8) In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this title, that the producer may pledge for production credit, in whole or in part, his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage

of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.[6]

* * * * *

[(2)] *Sec. 8b.* [After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce.[7]] *In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such com-*

[6] Added by Sec. 2 of Public No. 320, 74th Cong., 1st Sess.

[7] As amended by the Act of April 7, 1934, c. 103, 48 Stat. 528, Sec. 7.

modity or product thereof.[8] The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided,* That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act. Such loans shall not be in excess of such amounts as may be authorized by the agreements.

* * * * *

Sec. 8c.

* * * * *

(*16*) * * *

(*B*) *The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: Provided, That such majority*

[8] As amended by Sec. 4 of Public No. 320, 74th Cong., 1st Sess.

have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

* * * * *

PROVISIONS APPLICABLE TO AMENDMENTS

(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: Provided, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8c, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.[9]

* * * * *

BOOKS AND RECORDS

Sec. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to

[9] As amended by Sec. 5 of Public No. 320, 74th Cong., 1st Sess.

determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the

issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

DETERMINATION OF BASE PERIOD

Sec. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the postwar period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.[10]

[(5)] *Sec. 8f.*[11] No person engaged in the storage in a public warehouse of any basic agricultural

[10] As amended by Sec. 6 of Public No. 320, 74th Cong., 1st Sess.

commodity in the current of interstate or foreign commerce, shall deliver any such commodity upon which a warehouse receipt has been issued and is outstanding, without prior surrender and cancellation of such warehouse receipt. Any person violating any of the provisions of this subsection shall, upon conviction, be punished by a fine of not more than $5,000, or by imprisonment for not more than two years, or both. [The Secretary of Agriculture may revoke any license issued under subsection (3) of this section, if he finds, after due notice and opportunity for hearing, that the licensee has violated the provisions of this subsection.][11] (U. S. C., Title 7, Sec. 608.)

PROCESSING TAX

SEC. 9. (a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. [When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation.] *When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 8 are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to*

[11] As amended by Sec. 7 of Public No. 320, 74th Cong., 1st Sess.

such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that [,] *(1)* in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after the adoption of this amendment, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after the date of the adoption of this amendment [.], *and (2) in the case of rice the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935.* In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. *In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year.* The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that [rental or benefit payments] *all payments author-*

ized under section 8 which are in effect [12] are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided,* That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

[(b) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that (*1*) if the Secretary has reason to believe that the tax at such rate on the processing of the commodity generally or for any particular use or uses will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties[. If], *and if* thereupon the Secretary finds that any such result will occur, then the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to

[12] As amended by Secs. 1 and 2 of Public No. 20, 74th Cong., 1st Sess., and by Sec. 11 of Public No. 320, 74th Cong., 1st Sess.

any designated product or products thereof for any designated use or uses, shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price of the commodity[13] [.] , *and (2) for the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be at the rate of 1 cent per pound of rough rice, subject, however, to any modification of such rate which may be made pursuant to any other provision of this title.* In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account. *In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.*[14] In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair-exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the

[13] As amended by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 8.

[14] As amended by Secs. 3 and 4 of Public No. 20, 74th Cong., 1st Sess.

average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.][15]

TAX RATE GENERALLY

(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an insti-

[15] As amended by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 3.

tution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be

at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

* * * * *

SPECIFIC TAX RATE—RICE

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

* * * * *

ADJUSTMENT OF RATE

(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivisions (A) of this paragraph (6) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject, however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in

the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

RICE—SPECIAL RULE

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except

that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.[16]

* * * * *

[(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture.]

(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is

[16] As amended by Sec. 12 of Public No. 320, 74th Cong., 1st Sess.

adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title.[17]

(d) As used in part 2 of this title—

(1) In case of wheat [, rice,], *rye, barley,* and corn, the term "processing" means the milling or other processing (except cleaning and drying) of wheat [, rice,], *rye, barley,*[18] or corn for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only.

* * * * *

(7) In the case of rice—

(A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term "processing" means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the

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[17] As amended by Sec. 13 of Public No. 320, 74th Cong., 1st Sess.

[18] Sec. 5 of Public No. 20, 74th Cong., 1st Sess., strikes out the word " rice "; Sec. 14 (a) of Public No. 320, 74th Cong., 1st Sess., inserts the words " rye, barley ".

term "processing" means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term "cooperating producer" means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term "processor", as used in subsection (b–1) of section 15 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).[19]

[(7)] *(8)*[20] In the case of any other commodity, the term "processing" means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.[21]

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived

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[19] Sec. 6 of Public No. 20, 74th Cong., 1st Sess., adds paragraph 7.

[20] Sec. 6 of Public No. 20, 74th Cong., 1st Sess., renumbers paragraph "(7)" to "(8)."

[21] As amended by the Act of June 26, 1934, c. 759, 48 Stat. 1241, Sec. 2.

from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) For the purposes of part 2 of this title, processing shall be held to include manufacturing[22] (U. S. C., Title 7, Sec. 609).

* * * * *

MISCELLANEOUS

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SEC. 10. (c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein.

(d) The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this title.

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[22] Added by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 6.

(e) The action of any officer, employee, or agent in determining the amount of and in making any [rental or benefit payment] *payment authorized to be made under section 8* [23] shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(f) The provisions of this title shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam; except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of this Act, is authorized by proclamation to make the provisions of this title applicable to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam. *The President is authorized to attach by Executive order any or all of such possessions to any internal revenue collection district for the purpose of carrying out the provisions of this title with respect to the collection of taxes.*[24]

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(h) For the efficient administration of the provisions of part 2 of this title, the provisions, including penalties, of sections 8, 9, and 10 of the Federal Trade Commission Act, approved September 26, 1914, are made applicable to the jurisdic-

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[23] As amended by Sec. 17 of Public No. 320, 74th Cong., 1st Sess.

[24] As amended by Public No. 331, 74th Cong., 1st Sess., approved August 26, 1935.

tion, powers, and duties of the Secretary in administering the provisions of this title and to any person subject to the provisions of this title, whether or not a corporation. Hearings authorized or required under this title shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under part 2 of this title to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreements to be commenced and prosecuted in the proper courts of the United States without delay.

(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: Provided, That information furnished to the Secretary of Agricul-

ture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof[25] (U. S. C., Title 7, Sec. 610).

COMMODITIES

SEC. 11.[26] As used in this title, the term "basic agricultural commodity" means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, *potatoes,* tobacco, sugar beets and sugarcane, peanuts, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. *As used in this title, the term "potatoes" means all varieties of potatoes included*

[25] Added by Sec. 18 of Public No. 320, 74th Cong., 1st Sess.

[26] As amended by the Act of April 7, 1934, c. 103, 48 Stat. 528, Secs. 1, 3, 4, 5; and by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 1.

in the species Solanum tuberosum [27] (U. S. C., Title 7, Sec. 611).

APPROPRIATION

SEC. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this title and for [rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title] *payments authorized to be made under section 8.*[28] Such sum shall remain available until expended.

To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and productions adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000,000: *Provided,* That not more than 60 per centum of such amount shall be used for either of such industries.[29]

(b) [In addition to the foregoing, the proceeds derived from all taxes imposed under this title are

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[27] As amended by Sec. 61 of Public No. 320, 74th Cong., 1st Sess.

[28] As amended by Sec. 19 of Public No. 320, 74th Cong., 1st Sess.

[29] Added by Act of April 7, 1934, c. 103, 48 Stat. 528, Sec. 2.

hereby appropriated to be available to the Secretary of Agriculture for expansion of markets and removal of surplus agricultural products and the following purposes under part 2 of this title: Administrative expenses, rental and benefit payments, and refunds on taxes.] *In addition to the foregoing, for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes.*[30] The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

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[30] As amended by Sec. 3 of Public No. 320, 74th Cong., 1st Sess.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this title (U. S. C., Title 7, Sec. 612).

TERMINATION OF ACT

SEC. 13. This title shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this title as he finds are not requisite to carrying out the declared policy with respect to such commodity. In the case of sugar beets and sugarcane, the taxes provided by this title shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate [at the end of three years after the adoption of this amendment] *on December 31, 1937,*[31] unless this title ceases to be in effect at an earlier

[31]As amended by Sec. 20 (a) of Public No. 320, 74th Cong., 1st Sess.

date, as hereinabove provided. The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section [32] (U. S. C., Title 7, Sec. 613).

SEPARABILITY OF PROVISIONS

SEC. 14. If any provision of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this title and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby (U. S. C., Title 7, Sec. 614).

SUPPLEMENTARY REVENUE PROVISIONS

EXEMPTIONS AND COMPENSATING TAXES

SEC. 15. (a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such result will in his judgment most effectively be prevented by a suspension

[32] As amended by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 15.

of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products [33] [.], *or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the*

[33] As amended by the Act of June 26, 1934, c. 759, 48 Stat. 1241, Sec. 1.

provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13 and July 7, 1934, both inclusive.[34]

(b) No tax shall be required to be paid on the processing of any commodity by or for the producer thereof for consumption by his own family, employees, or household; and the Secretary of Agriculture is authorized, by regulations, to exempt from the payment of the processing tax the processing of commodities by or for the producer thereof for sale by him where, in the judgment of the Secretary, the imposition of a processing tax with respect thereto is unnecessary to effectuate the declared policy.

(b–1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants,

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[34]As amended by Sec. 21 of Public No. 320, 74th Cong., 1st Sess.

with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax-payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he has in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: Provided, That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: And provided further, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this title, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of tax-payment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so

transferred, and was, if eligible, a cooperating producer.

(b–2) The warrants authorized and directed to be issued by subsection (b–1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

(b–3) (1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty

of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this title or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.[35]

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[35]Added by Sec. 8 of Public No. 20, 74th Cong., 1st Sess.

(c) Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution, or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this title subject to tax, be entitled to a refund of the amount of any tax due and paid under this title with respect to such product so delivered, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however,* That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. [No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use.] [36] The word "State" as used in this section shall include a State and any political subdivision thereof.[37]

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[36] As amended by Sec. 22 of Public No. 320, 74th Cong., 1st Sess.

[37] As amended by the Act of June 16, 1934, c. 551, 48 Stat. 973.

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors *or producers*[38] thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which

[37] As amended by Sec. 23 of Public No. 320, 74th Cong., 1st Sess.

this title applies, from any foreign country or from any possession of the United States to which this title does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity *into such an article* at the time of importation: *Provided, (1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities;* [39] *and* (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this title does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control [40] (U. S. C., Title 7, Sec. 615).

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[39] As amended by Ses. 9 of Public No. 20, 74th Cong., 1st Sess.; and by Sec. 24 of Public No. 320, 74th Cong., 1st Sess.

[40] As amended by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 11.

EXPORTATIONS

SEC. 17. (a) [Upon the exportatin to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product with respect to which a tax has been paid under this title, or of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid under this title, the tax due and paid shall be refunded. The refund shall be paid to the exporter or to the consignor named in the bill of lading under which the product is exported, as determined under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.] *Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have*

been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding.[41] In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this title with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.

(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this title requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this title, or to hold for such exportation any article processed wholly or partly therefrom[42] (U. S. C., Title 7, Sec. 617).

EXISTING CONTRACTS

SEC. 18. (a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any commodity is first imposed under this title, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2)

[41] As amended by Sec. 11 of Public No. 20, 74th Cong., 1st Sess.; and by Sec. 28 of Public No. 320, 74th Cong., 1st Sess.

[42] As amended by the Act of May 9, 1934, c. 263, 48 Stat. 670, Secs. 12, 13.

such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this title. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall cause collections of such taxes to be made from the vendee (U. S. C., Title 7, Sec. 618).

COLLECTION OF TAXES

SEC. 19. (a) The taxes provided in this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b)[43] All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, in so far as applicable and not inconsistent with the provisions of this title, be applicable in respect of taxes imposed by this title: *Provided,* That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of *not*

[43] As amended by the Act of June 26, 1934, c. 759, 48 Stat. 1241, Sec. 3.

exceeding three-fourths of the amount of the taxes covered by any return under this title, *but postponement of all taxes covered by returns under this title for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.*[44]

(c) In order that the payment of taxes under this title may not impose any immediate undue financial burden upon processors or distributors, any processor or distributor subject to such taxes shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such per-

[44] As amended by Sec. 29 (a) of Public No. 320, 74th Cong., 1st Sess.

son, or any other person, is liable for the tax.[45] (U. S. C., Title 7, Sec. 619.)

SEC. 20. (a) Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this title, or which is to be subjected to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this title, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this title, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(b) Whoever in connection with the processing of any commodity subject to any tax under this title, whether commercially, for toll, upon an exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this title, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to

[45] Added by Sec. 29 (b) of Public No. 320, 74th Cong., 1st Sess.

a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(c) Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any product or byproduct thereof, subject to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this title, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both [46] (U. S. C., Title 7, Sec. 620).

Sec. 21. (a) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collec-

[46] Added by the Act of May 9, 1934, c. 263, 48 Stat. 670, Sec. 16.

tion of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) The taxes imposed under this title, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in

this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 ("one") of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such

tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or

credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power

conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner

pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more

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than one year, or both, and shall be removed from office.

(f) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to the date of the adoption of this amendment, then such one-year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.[47]

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[47] Added by Sec. 30 of Public No. 320, 74th Cong., 1st Sess.

Sec. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: Provided, That no limitation shall be imposed on

the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

(d) Any decision of the President as to facts under this section shall be final.

(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.[48]

REVISED STATUTES

SEC. 3210. [As amended by Sec. 1031 (b) of the Revenue Act of 1924, c. 234, 43 Stat. 253.] (a) Except as provided in subdivision (b) the gross amount of all taxes and revenues received under the provisions of this Act, and collections of what-

[48] Added by Sec. 31 of Public No. 320, 74th Cong., 1st Sess.

ever nature received or collected by authority of any internal-revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary of the Treasury as internal-revenue collections, by the officer receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the treasurer, assistant treasurer, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Commissioner of Internal Revenue.

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(U. S. C., Title 26, Sec. 1761.)

SEC. 3220. [As amended by Sec. 1111 of the Revenue Act of 1926, c. 27, 44 Stat. 9, and Sec. 619 of the Revenue Act of 1928, c. 852, 45 Stat. 791.] Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor,

assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section (U. S. C., Title 26, Sec. 1670).

SEC. 3224. No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court (U. S. C., Title 26, Sec. 1543).

SEC. 3226. [As amended by Sec. 1103 of the Revenue Act of 1932, c. 209, 47 Stat. 169.] No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to

which such suit or proceeding relates (U. S. C., Title 26, Secs. 1672–1673).

SEC. 3228. [As amended by Sec. 1112 of the Revenue Act of 1926, Sec. 619 of the Revenue Act of 1928, and Sec. 1106 of the Revenue Act of 1932.] (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner or Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

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(U. S. C., Title 26, Sec. 1433.)

REVENUE ACT OF 1926, c. 27, 44 STAT. 9

TITLE VI—EXCISE TAXES

SEC. 600. There shall be levied, assessed, collected, and paid upon the following articles sold or leased by the manufacturer, producer, or importer, a tax equivalent to the following percentage of the price for which so sold or leased—

* * * * *

SEC. 602. Every person liable for any tax imposed by section 600 shall make monthly returns under oath in duplicate and pay the taxes imposed by such section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid (U. S. C., Title 26, Secs. 1121, 1122).

TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

LAWS MADE APPLICABLE

SEC. 1100. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act (U. S. C., Title 26, Sec. 440).

REVENUE ACT OF 1932, C. 209, 47 STAT. 169

SEC. 626. RETURN AND PAYMENT OF MANUFACTURERS' TAXES.

(a) Every person liable for any tax imposed by this title other than taxes on importation (except tax under section 615, relating to tax on soft drinks) shall make monthly returns under oath in duplicate and pay the taxes imposed by this title to the col-

lector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

PART B

REGULATIONS 83 (SEPTEMBER, 1934, ED.), C. II

ART. 2. *Scope of chapter.*—The provisions of this chapter apply to the procedure to be followed in order to obtain a refund of the amount of tax which has been paid with respect to a product exported to a foreign country.

ART. 3. *Claim for refund.*—(a) The claim for refund shall be executed by the claimant on the prescribed form, P. T. Form 27, in accordance with the instructions contained thereon, and in accordance with these regulations. The claim must be filed with the collector for the district in which is located the principal place of business of the claimant. If the claimant has no principal place of business in the United States, the claim must be filed with the collector at Baltimore, Md. One claim may cover a number of export shipments. The party named as consignor in the bill of lading under which a product is exported shall be entitled to the refund unless the exporter shall have reserved the right to refund, and the bill of lading bears the proper disclaimer by the consignor.

(b) Each claim for refund shall show with respect to each export shipment (1) the serial number given by the collector of customs to the application for inspection (article 4), and the name of the port where filed (mail exportations excepted, see article 11), (2) the number and kind of packages, (3) the actual net weight of each product exported, together with such a description of the product as will enable the Commissioner to apply the proper rate of tax, (4) the quantity of the commodity in each product with respect to which claim

is made that tax was paid, (5) the rate of tax applicable thereto as determined by the conversion factor established in regulations of the Secretary of Agriculture, and (6) the amount of refund claimed thereon.

(c) In the case of a shipment other than by mail, a copy of the export bill of lading required with respect to such shipment shall be filed with each claim and shall be deemed a part thereof. In the case of exportation by mail, the executed application for inspection, as provided in article 11, must be filed with the claim and will be deemed a part thereof.

(d) Each claim shall be supported by proof satisfactory to the Commissioner that the tax, refund of which is claimed, was actually paid to a collector of internal revenue.

TREASURY DECISION 4586, INTERNAL REVENUE BULLETIN, VOL. XIV, No. 37, P. 15

XIV-37-7696. T. D. 4586

PROCESSING TAX AND COMPENSATING TAX WITH RESPECT TO RICE UNDER THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER
OF INTERNAL REVENUE,
Washington, D. C.

Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 9 (a), Agricultural Adjustment Act, as amended by the Act approved March 18, 1935, provides, in part:

* * * When the Secretary of Agriculture determines that rental or benefit pay-

ments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that * * * in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. * * * In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. * * *

PAR. B. A proclamation of the Acting Secretary of Agriculture, dated March 18, 1935, provides:

> * * * I, M. L. WILSON, Acting Secretary of Agriculture of the United States of America, have determined and hereby proclaim that rental and/or benefit payments are to be made with respect to rice, a basic agricultural commodity.

PAR. C. Section 9(b) of the Agricultural Adjustment Act, as amended, provides in part:

> (3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.
>
> (7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

PAR. D. Section 9 (d) of the Agricultural Adjustment Act, as amended, provides in part:

> (7) In the case of rice—
>
> (A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.
>
> (B) The term "processing" means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant had been previously issued or applied for by application then pending, the term "processing" means any one of the above-mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.
>
> (D) The term "processor", as used in subsection (b–1)[49] of section 15 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

PAR. E. Section 10 (c), Agricultural Adjustment Act, provides:

> The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article proc-

[49] See paragraph G.

essed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein.

PAR. F. The regulations, with respect to rice, made by the Secretary of Agriculture, with the approval of the President, dated March 30, 1935, as revised and, in part, superseded by regulations made by the Acting Secretary of Agriculture, with the approval of the President, dated July 31, 1935, provide:

I. MARKETING YEAR

(1) I do hereby ascertain and prescribe that for the purposes of said Act the first marketing year for rice shall begin August 1, 1935.

II. RATE OF TAX

(2) The rate of processing tax on the first domestic processing of rice, beginning April 1, 1935, shall be one (1) cent per pound of rough rice.

The weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

III. DEFINITIONS

(3) The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own

livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the first domestic processing means any one of the above-mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

Rough rice (frequently termed or referred to as "paddy") means rice in that condition which is usual and customary when delivered by the producer to a processor.

Ground rough rice is rough rice which has been cracked, crushed, chopped, or ground.

Cleaned rough rice is rough rice which has been subjected to a cleaning process for removal of separable extraneous foreign matter.

Brown rice is rice which has been hulled and from which the germ and the bran have not been removed.

Rice meal is brown rice which has been cracked, crushed, chopped, pulverized, or ground.

Milled rice is rice which has been hulled and from which the germ and all or part of the bran have been removed, and may be either whole or broken, coated or uncoated.

(*a*) *Brewers' rice* is broken milled rice which will pass readily through a metal sieve perforated with round holes five and one-half sixty-fourths of one inch in diameter.

(*b*) *Other milled rice* is any milled rice other than brewers' rice.

Granulated rice is milled rice which has been cracked, crushed, chopped, pulverized, or ground.

Rice flour is flour resulting from the pulverizing and/or bolting of milled rice.

Rice starch is starch resulting from the wet milling of rice in any form.

Rice powder is rice starch which has been pulverized and/or bolted.

Rice breakfast foods are preparations of a breakfast food type in which rice is used as one of the ingredients, including (*a*) the rolled and flaked type, consisting chiefly of rice; and (*b*) the puffed type, consisting chiefly of rice.

Rice soup is soup which includes as one of its ingredients rice in any form.

Fermented beverages.—(*a*) *Beer* is an alcoholic beverage made by fermentation from cereals, including rice, and flavored with hops or other substance to impart its characteristic bitter flavor.

(*b*) *Rice wine or sake* is an alcoholic beverage made by a special process of fermentation from materials consisting chiefly of rice.

Distilled spirits are products derived from materials consisting chiefly of rice by a process of distillation, to which other ingredients may have been added, and include both beverages and medicinal preparations of the kinds commonly referred to as "Chinese wines."

Rice hull is the husk or tough fibrous outer coat of rough rice.

Rice bran is the bran of rice together with such quantity of hull fragments and germ as is usual in the regular milling of rice, and includes huller bran and stone bran.

Rice germ is the embryo of the rice kernel.

Rice polish is the fine powdery material resulting from the polishing of milled rice.

IV. CONVENTION FACTORS

(4) I do hereby establish conversion factors for articles processed wholly, in chief value, or partly from rice to determine the

amount of tax imposed or refunds to be made with respect thereto.

The following table of conversion factors fixes the percentage of the per-pound processing tax on rough rice with respect to each pound [50] of the following articles processed wholly, in chief value, or partly from rough rice:

Article	Unit (pounds)	Conversion factor (per cent of the per pound processing tax on rough rice)
Ground rough rice	1	100
Cleaned rough rice	1	101
Brown rice	1	130
Rice meal	1	130
Milled rice:		
(a) Brewers rice	1	75
(b) Other milled rice	1	145
Granulated rice	1	75
Rice flour	1	75
Rice starch	1	215
Rice powder	1	215
Rice breakfast foods:		
(a) Rolled or flaked types, consisting chiefly of rice	1	178
(b) Puffed type, consisting chiefly of rice	1	377
Rice soup	1	9
Fermented beverages:		
(a) Beer, if made from materials of which rice constituted by weight: [1]		
Over 1/10 percent and not over 10 percent	(2)	310
Over 10 percent and not over 15 percent	(2)	504
Over 15 percent and not over 20 percent	(2)	697
Over 20 percent and not over 25 percent	(2)	891
Over 25 percent and not over 30 percent	(2)	1,084
Over 30 percent and not over 35 percent	(2)	1,278
Over 35 percent and not over 40 percent	(2)	1,471
Over 40 percent and not over 45 percent	(2)	1,665
Over 45 percent	(2)	1,859
(b) Rice wine or sake	(3)	887
Distilled spirits	(3)	3,000
Rice hull	1	0
Rice bran	1	0
Rice germ	1	0
Rice polish	1	0

[1] Exclusive of water added during the manufacturing process.
[2] Per barrel of 31 gallons.
[3] Per gallon.

[50] In the case of rice wine or sake, and distilled spirits, 1 gallon; in the case of beer, 1 barrel of 31 gallons.

As to any article for which no conversion factor is assigned, I hereby establish (1) that if such article is made, directly or indirectly, in some part from another article for which a conversion factor is assigned, then as to each pound of the rice content of such part the conversion factor shall be the conversion factor for such other article, and (2) that if such article is made, directly or indirectly, in some part from rice but not as to such part from another article for which a conversion factor is assigned, then as to such part the tax or refund shall be computed at the rate of the processing tax upon the basis of the amount of rough rice established to have been actually used in the production of such part.

In the event that the Commissioner of Internal Revenue, any taxpayer, or any person entitled to a refund establishes that any article processed from rice, with respect to which a tax is imposed, or which may be the subject of a claim for refund, which is included in the above list, contains more or less rice content than represented by the listed conversion factor, then the amount of the tax or of the refund shall be computed at the rate of the processing tax upon the basis of the amount of rough rice established to have been actually used in the production of the article.

PAR. G. Section 15 (b–1) and (b–2), Agricultural Adjustment Act, as amended, provides:

(b–1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 * * * sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time

of such issuance, to any processor with respect to any such rice which he has in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: * * *

(b–2) The warrants authorized and directed to be issued by subsection (b–1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, * * *

(2) shall be accepted by the collector of internal revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

PAR. H. Section 17 (a) of the Agricultural Adjustment Act, as amended, provides in part:

Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product with respect to which a tax has been paid under this title, or of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid under this title, the tax due and paid shall be refunded. The refund shall be paid to the exporter or to the consignor named in the bill of lading under which the product is exported, as determined under regulations prescribed by the

Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. * * *

PAR. I. Section 15 (e) of the Agricultural Adjustment Act, as amended, provides in part:

During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: *Provided,* (1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; * * *

PAR. J. Section 19 (a), Agricultural Adjustment Act, provides:

> The taxes provided in this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

PAR. K. Section 10 (d), Agricultural Adjustment Act, provides:

> The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this title.

PAR. L. Section 1101, Revenue Act of 1926, made applicable by section 19 (b), Agricultural Adjustment Act, provides:

> The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

Pursuant to the above-quoted provisions and provisions of the various internal-revenue laws, the following regulations are hereby prescribed:

> ARTICLE 1. *General.*—(*a*) At the earliest moment of April 1, 1935, there became effective (1) a processing tax on the first domestic processing of rice and (2) a compensating tax with respect to all articles processed or manufactured wholly or partly from rough rice and imported on or after April 1, 1935.
>
> The rate of processing tax is given in article 2 of these regulations. The rates of compensating tax are given in article 4 of these regulations.
>
> (*b*) For regulations relating to the processing tax and compensating tax, consult

Regulations 81, and for regulations relating to exportation under section 17 of the Act, consult Regulations 83 (September, 1934, edition), which are general regulations under the Agricultural Adjustment Act, as amended. Said regulations are supplemented by the regulations contained in this Treasury decision.

(*c*) The "effective date" as defined and used in Regulations 81 and Regulations 83 (September, 1934, edition), that is, the date when the processing tax with respect to rice became effective, is April 1 ,1935.

(*d*) The various definitions set forth in the regulations of the Secretary of Agriculture in paragraph F (3) above are hereby made a part of these regulations.

ART. 2. *Processing tax.*—(*a*) A tax is imposed on the first domestic processing of rice. First domestic processing of rice means:

(1) The cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice;

(2) In the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, (*a*) any one of the above-mentioned processings or (*b*) any preparation or handling in connection with the sale or other disposition thereof. See subdivision (*c*) of this article.

The term "rough rice" means rice in that condition which is usual and customary

when delivered by the producer to a processor. The rate of tax on the first domestic processing of rice is one (1) cent per pound of rough rice. The weight of rice to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

(*b*) *Tax-payment warrants.*—Tax-payment warrants issued pursuant to section 15 (b–1) and (b–2)[51] of the Act, as amended, will be accepted at the face value thereof by collectors of internal revenue in payment of any processing tax with respect to rice. If the amount of tax-payment warrants tendered with a processing tax return exceeds the amount of tax shown to be due on said return, the amount in excess shall be claimed on the return filed for the following month as a credit against the tax shown thereon to be due. If the amount of tax-payment warrants tendered with a processing tax return is less than the amount of tax shown to be due on such return, the difference shall be paid in cash.

(*c*) *Exemptions.*—

Exempt from the processing tax are:

(1) The processing of rough rice by or for the producer thereof for consumption by his family, employees, or household.

(2) The grinding or cracking of rough rice by or for the producer thereof for feed for his own livestock.

(3) The cleaning of rough rice by or directly for a producer for seed purposes.

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[51] See paragraph G above.

The exemption under subdivision (3) does not apply if (*a*) a tax-payment warrant has been issued, or (*b*) a tax-payment warrant has been applied for by application then pending, with respect to such rough rice, and such rice is prepared or handled in connection with a sale or other disposition thereof.

When rough rice is (1) processed for the producer thereof, for consumption by his family, employees, or household, or (2) ground or cracked for the producer thereof, for feed for his own livestock, or (3) cleaned directly for the producer for seed purposes, if the above exemption with respect thereto applies, the processor shall procure at the time of delivery of the product an affidavit or certificate in duplicate on P. T. Form 29–A. One copy of such affidavit or certificate shall be kept on the premises of the processing plant, and the other shall be filed by the processor with his monthly return on P. T. Form 5, on which deductions are taken for such processing, grinding, cracking, or cleaning.

(*d*) The form prescribed for return of processing tax is P. T. Form 5. The return for each month shall be filed on or before the last day of the month following the calendar month in which the processing is done. The amount of tax shown to be due on each such return must be paid at the time when the return is filed, or if the time for payment be postponed, then at the time or times designated for payment in such postponement.

(*e*) Each person engaged in the processing of rice shall keep a written record showing with respect to rough rice (1) the quan-

tity on hand at the beginning of the month, (2) the quantity received during the month, (3) the quantity shipped or delivered during the month, (4) the quantity sold or otherwise disposed of during the month, (5) the quantity on hand at the end of the month, and (6) the quantity put in process during the month. These quantities must be the actual weight of the rough rice when delivered to the processor, or when delivered to the place of processing if the processor is also the producer.

ART. 3. *Compensating tax on imported articles.*—A compensating tax became effective at the earliest moment of April 1, 1935, with respect to all articles processed or manufactured wholly or partly from rice imported on and after said date, into the United States or any possession thereof to which the Act applies, from any foreign country or any possession of the United States to which the Act does not apply. The amount of compensating tax payable with respect to an imported article is based on the rate in effect with respect to such article at the time of importation and not the rate in effect at the time of the withdrawal of such article from customs custody or control. The tax applicable to such articles is given in article 4 of these regulations. Detailed regulations as to this tax are contained in Chapter IV of Regulations 81, as amended by Treasury Decision 4501, approved December 4, 1934 [C. B. XIII–2, 524].

ART. 4. *Rates of compensating tax or of refund.*—(*a*) The rates of compensating tax or of refund with respect to articles processed wholly or partly from rice are as follows:

(1) In the case of an article named below, the rate is:

Classification	Rate of tax or of refund (cents)
	Per pound
Ground rough rice	1.00
Cleaned rough rice	1.01
Brown rice	1.30
Rice meal	1.30
Milled rice:	
(*a*) Brewers' rice	.75
(*b*) Other milled rice	1.45
Granulated rice	.75
Rice flour	.75
Rice starch	2.15
Rice powder	2.15
Rice breakfast foods:	
(*a*) Rolled or flaked types, consisting chiefly of rice	1.78
(*b*) Puffed type, consisting chiefly of rice	3.77
Rice soup	.09
Fermented beverages:	
(*a*) Beer, if made from materials of which rice constituted, by weight: [1]	*Per barrel of 31 gallons*
Over 1/10 percent and not over 10 percent	3.10
Over 10 percent and not over 15 percent	5.04
Over 15 percent and not over 20 percent	6.97
Over 20 percent and not over 25 percent	8.91
Over 25 percent and not over 30 percent	10.84
Over 30 percent and not over 35 percent	12.78
Over 35 percent and not over 40 percent	14.71
Over 40 percent and not over 45 percent	16.65
Over 45 percent	18.59
	Per gallon
(*b*) Rice wine or sake	8.87
Distilled spirits	30.00

[1] Exclusive of water added during the manufacturing process.

(2) In the case of an article not named in (1) above, part of which was made directly or indirectly from an article named in (1) above, the rate of tax or of refund with respect to such part shall be the rate for the named article from which such part was made; and, if such part was made indirectly from an article named in (1) above, and directly from another article named in (1) above, the rate of tax or of refund shall be the rate for the named article from which such part was directly made. For example,

if such part was made from milled rice, the rate of tax or of refund with respect to such part is the rate for milled rice.

(3) In the case of an article not named in (1) above, part of which was made directly or indirectly from rice, but not as to such part directly or indirectly from an article named in (1) above, the amount of tax or of refund shall be equivalent to the amount of tax on the processing of such quantity of rough rice as was actually used in the production of such part.

(*b*) In the event that the Commissioner of Internal Revenue finds, or any taxpayer, or any person entitled to a refund, establishes, that an article processed from rice, with respect to which a tax is imposed, or which may be the subject of a claim for refund, which is included in the above list, contains more or less rice content than represented by the conversion factor prescribed therefor in paragraph F (4), above, then the amount of tax or of refund shall be equivalent to the amount of tax on the processing of such quantity of rough rice as is shown to have been actually used in the production of the article.

(*c*) Any refund or credit of tax, made pursuant to the provisions of section 15 (c) or any refund made under the provisions of section 17 (a) of the Act, as amended, shall be made only on the following basis:

(1) If the tax paid was a compensating tax, the amount of refund shall be the amount of tax actually due and paid with respect to the particular product delivered or exported.

(2) If the tax paid was a processing tax, the amount of refund shall be determined in accordance with the rate of processing tax in effect at the time of the first domestic

processing of rice from which the delivered or exported product was processed and in accordance with the proper conversion factor in effect at the time the product was delivered or exported.

No refund under the provisions of section 17 (a) of the Act, as amended, will be made with respect to articles processed from rice which are exported unless it is shown that the tax with respect to such articles was actually paid in cash or by the tender of tax-payment warrants. No refund under the provisions of section 15 (c) of the Act, as amended, will be made with respect to articles processed from rice delivered for charitable distribution or use unless it is shown that the tax with respect to such articles was actually paid in cash.

Claims for such refunds shall be supported by the affidavit of the processor showing when the processing occurred which resulted in the particular rice product exported or delivered, and when the tax was paid to the collector. If the claim is made under the provisions of section 15 (c) of the Act, as amended, such affidavit must show that the tax was paid in cash. The affidavit of the processor must also show the quantity and kind of product sold, the name and address of the person to whom delivered, and date of delivery. The claim shall also be supported by the affidavit of each person to whom such rice product is subsequently delivered, showing the quantity and kind of product received, the name and address of the person from whom received, and date of receipt, and to whom all or part thereof was delivered, the quantity and kind delivered, the name and address of the person to whom delivered, and the date of delivery. These affidavits must trace such product from the processor to the person who files the claim.

ART. 5. *Forms.*—To insure the proper return and collection of the processing tax imposed by the Act, and to facilitate the refund of taxes, certain forms are herein prescribed. The prescribed form must be used as required by the applicable provision of Regulations 81, Regulations 83 (September, 1934, edition), and these regulations, and must be carefully filled out in exact accordance with the applicable provisions of the proper regulations and the instructions contained on such form. The following forms with respect to rice are here prescribed:

Form No.	Designation	Required by—
P. T. Form 5	Processing tax return	Regulations 81, article 11.
P. T. Form 24	Claim for refund of overpayment or abatement under Agricultural Adjustment Act.	Regulations 81, articles 30, 31 (*a*), 32.
P. T. Form 24–C	Claim for refund of, or credit for, tax paid, or payable, with respect to articles delivered for charitable distribution or use.	Regulations 81, article 32, as amended (T. D. 4454).
P. T. Form 27	Claim for refund of tax paid with respect to articles exported.	Regulations 83 (September 1934 edition).
P. T. Form 28	Claim for credit on monthly return.	Regulations 81, article 31 (*b*).

ART. 6. *Effective date.*—Treasury Decision 4565, approved July 10, 1935 [I. R. B. XIV–29, 18], shall remain in force and effect insofar as it relates to liability for tax incurred and right to refund or credit accrued prior to August 1, 1935. These regulations shall be in force and effect as of the earliest moment of August 1, 1935.

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved September 9, 1935.

T. J. COOLIDGE,
Acting Secretary of the Treasury.

PART C

Compilation taken from Monthly Reports from Commissioner of Internal Revenue to Agricultural Adjustment Administration published by Agricultural Adjustment Administration:

Month 1935	Collections of rice processing taxes	Rice processing tax export refunds
April	None	None
May	$0.30	None
June	1,582.25	None
July	754.83	$214,079.76
August	7,003.87	356,129.10
September	63,655.16	194,218.11
October	305,794.19	368,016.28
Total	378,790.60	1,132,443.25

PART D

Marketing Agreement for Southern Rice Milling Industry

The parties to this agreement are the contracting rice Millers and their subsidiaries, and the Secretary of Agriculture of the United States.

WHEREAS, The Congress of the United States by the Agricultural Adjustment Act approved May 12, 1933, as amended, has declared that a national economic emergency exists due to the severe and increasing disparity between the prices of agricultural and other commodities and that there should be established and maintained such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will establish prices to the farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period described in said Act, and

WHEREAS, pursuant to said Act, the parties hereto, for the purpose of effectuating the declared policy of said Act, desire to enter into a Marketing Agreement under the provisions of Section 8 (2) of the Act, and

WHEREAS, the rice milled and marketed by the Millers enters into the current of interstate and foreign commerce:

NOW, THEREFORE, in consideration of the premises and the mutual premises herein contained, the parties hereto agree as follows:

ARTICLE I—DEFINITIONS

As used in this Agreement, the following words and phrases shall be defined as follows:

1. "Miller" means any person, firm, corporation or cooperative association, signatory hereto, engaged in the milling and marketing of rice in any of the states of Louisiana, Arkansas, Texas and Tennessee and the subsidiary agencies and/or corporations engaged in the milling or marketing of rice, owned or controlled by any Miller.

2. "The Secretary" means the Secretary of Agriculture of the United States of America.

3. "The Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.

4. "Rough Rice" means rice from which the hull has not been removed.

5. "Clean Rice" means rice which has been converted into marketable and edible form.

6. "Control Committee" means the Control Committee created pursuant to Article II hereof.

7. "The Marketing Fund" means the Marketing Fund created by the Millers pursuant to Article VII hereof.

8. "Barrel" means a unit of 162 pounds of rough rice.

9. "Packaged Rice" means rice packed in any type of container having a net weight of 5 pounds or less.

10. "Sack" or "Bag" means every container of unknown, irregular, or random weight.

11. "Lump Sum" means without respect to quantity, quality or condition.

12. "Round" means purchasing without respect to grade.

13. "Crop Year" means the period from August 1 to July 31.

14. "A Bushel" means a unit of 45 pounds.

ARTICLE II—CONTROL COMMITTEE

1. The Millers shall elect a Control Committee of seven members, which shall be approved by the Secretary. Three members shall be selected from Louisiana, two from Arkansas, and two from Texas. Each member of the Control Committee shall be chosen by a weighted majority vote of all the Millers, and for such purpose each Miller's vote shall be entitled to the weight which the volume of rough rice milled by him during the three preceding crop years bears to the total volume of rough rice milled by all of the Millers in said years.

2. The Control Committee shall, at its organization meeting and from time to time thereafter elect such officers and adopt such rules for the conduct of its business as it may deem advisable. Vacancies in the Control Committee shall be filled in the same manner and shall be subject to the same approval by the Secretary as the original members.

3. The duties of the Control Committee shall be:

a. To supervise the performance of this agreement and to act as intermediary between the Secretary and the Millers.

b. To appoint such employees as it may deem necessary and to determine the salaries and to define the duties of any such employees.

c. To administer the Marketing Fund and to incur and pay such expense as it shall deem reasonable and necessary for the proper accomplishment of the purposes of this Agreement.

d. By appropriate resolution, from time to time, to appoint and define the duties of additional committees to assure any duties or perform such functions as may be necessary or desirable in the interests of the Millers and producers of rice.

e. To hear and dispose of all disputes arising in connection with the performance of this agreement, subject only to the right of appeal to the Secretary hereinafter granted in Article VIII. *Provided, however,* that said Control Committee shall not award in any dispute between Millers damages in money or impose upon a Miller any penalty requiring the payment of a sum of money, except in the event of a breach of this agreement, as hereinafter provided, and, *Further, Provided,* that if a member of the Control Committee shall in any case be a disputant, or a representative of a disputant, he shall, for the purpose of the consideration of such controversy, be disqualified as a member of the Control Committee.

ARTICLE III—REPORTS

1. Each Miller shall file with the Control Committee such reports at such times and in such form as the Control Committee may from time to time prescribe, and shall substantiate such reports in such manner as the Control Board may prescribe.

2. The details of any reports shall be confidential and the Control Committee shall not disclose to any person other than the Secretary information covering the business of any individual Miller. It shall

be the duty of the Control Committee to furnish the Secretary upon request any and all information furnished by the Millers pursuant to this Article.

ARTICLE IV—PURCHASES

1. All rough rice shall be purchased in units of barrels or bushels and no Miller shall purchase rice round or by sack, stack, or lump sum.

2. As soon as convenient after the effective date hereof the Secretary shall fix minimum prices for number one grade prime milling quality of each variety of rough rice. The Secretary may from time to time change any such minimum prices upon such advance notice to the Control Committee as the Secretary may deem reasonable under the circumstances. A majority of the Control Committee may propose changes in such minimum prices and submit such proposals to the Secretary.

From the minimum prices for rough rice thus determined the Millers shall compute minimum prices for each other grade of each variety of rough rice in accordance with the schedule of differentials hereto attached as Schedule 1. Said Schedule may at any time be changed by the Secretary if in his opinion it does not accurately reflect the relative market values of other grades.

3. After the effective date hereof the net price paid by any Miller to a producer for any rough rice shall not be less than the prevailing minimum price for the corresponding variety and grade determined pursuant to this Article and Schedule 1. Such price shall be based on delivery at customary points of delivery as defined by the Control Committee. Customary points of delivery as thus defined shall be subject to change at any time by the Secretary.

4. In the event of a controversy between a Miller and a producer with regard to the proper variety or grade of any rough rice such Miller shall cause a sample of said rice to be taken by a sampler licensed by the Federal-State Grading Office and shall submit such sample for grading to any Federal-State Grading Office. Said Miller shall abide by the certificate of grade and variety issued by such Federal-State Grading Office, the expense of such sampling and grading shall be borne by the loser to the controversy.

ARTICLE V—SALES

1. No Miller shall sell or offer for sale for domestic consumption clean rice milled from a barrel of rough rice for less than the actual cost or replacement cost of such barrel of rough rice delivered at the mill, plus the cost of conversion, the actual cost of the container and the Marketing Fund charge hereinafter provided for in Article VII.

a. The "replacement cost" of rough rice as used herein shall be the average per barrel price paid for rough rice of the same grade and variety by all mills within such geographical limits as shall be defined by the Control Committee on or about the date the clean rice is sold or offered for sale, as the case may be.

b. "Cost of conversion" as used herein shall be 70 cents per barrel of rough rice until said cost of conversion is changed by the Control Committee, with the approval of the Secretary. The cost of conversion shall not include the cost of containers or the marketing fund charge hereinafter provided for in Article VII.

2. No Miller shall sell rice except on the following terms:

a. All clean rice, other than packaged rice, for domestic delivery by rail or water, as follows: sight draft, order notify Bill of Lading attached, payable on arrival, with one (1) per cent discount allowed from F. O. B. mill price for payment within ten (10) days from date of shipment, regardless of whether the goods have arrived or not, and only net amount of invoice and draft to be accepted thereafter, provided, however, that on all sales of rice stored in warehouses located outside the states of Louisiana, Texas, Arkansas, and Tennessee, the terms of sale shall be cash less 1 percent discount for payment in 10 days after delivery to the purchaser.

b. All truck delivery, as follows: on shipments within the state and interstate within a radius of 200 miles of mill, to be cash less 1 percent within 10 days of delivery to customer; shipments beyond the above mentioned area, to be cash less 1 percent on delivery to the carrier.

c. By-products, as follows: sight draft, order notify, bill of lading attached, net cash payable on arrival.

d. Shipments to Puerto Rico, as follows: net cash with draft drawn dated same as bill of lading, with bill of lading and marine insurance certificate attached, seller's order, notify buyer, and draft to be paid promptly upon arrival and examination of goods, but, not to exceed five full business days after goods have been discharged from ship; except, however, that when sale is to a buyer resident in continental United States, terms shall be net

cash, draft with bill of lading attached, payable on arrival and examination of goods at American destination (port of shipment), or cash less 1 percent if paid within 10 days from date of shipment.

e. On all sales for direct shipment to foreign countries, the terms shall be optional with the seller.

ARTICLE VI—BROKERAGE

1. No Miller shall pay a brokerage charge unless a brokerage service has in fact been rendered and no Miller shall pay more than one brokerage charge on any transaction.

2. No Miller shall pay any brokerage charge in excess of the following schedule:

a. On clean rice and rice flour, except packaged rice, sold within the boundaries of the continental United States, 8 cents per 100 pounds.

b. On brewers rice and screenings, 5 cents per 100 pounds.

c. On rice bran and rice polish and other rice by-products, 50 cents per ton, and on rice hulls 25 cents per ton.

d. On all rice sold in Puerto Rico, 8 cents per 100 pounds.

3. No Miller shall pay any brokerage charge on the resale of rejected rice when such resale is made by the same broker.

ARTICLE VII—MARKETING FUND

1. Each Miller on or before the 10th day of October, 1933 shall pay into a Marketing Fund ten cents for each barrel of rough rice milled by him between the effective date hereof and October 1, 1933, and

on or before the 10th day of each month thereafter, each Miller shall pay into the Marketing Fund ten cents for each barrel of rough rice milled by him during the preceding month. If any Miller fails to make any such payment by the 16th day of the month in which such payment is due, he shall pay into the Marketing Fund an additional five cents per barrel for each barrel of rough rice milled by him during the said preceding month.

2. Expenses incurred by the Control Committee, and expenses (approved by the Control Committee) incurred by any other committees appointed hereunder, shall be paid from the Marketing Fund, unless any such expense shall be disapproved by the Secretary. No member of the Control Committee shall be compensated for his services in excess of his actual expenses, plus $10.00 per day for each day of attendance at meetings of the Control Committee or for each day devoted at the request of the Control Committee to the business thereof.

3. The Marketing Fund shall be deposited in banks to be selected by the Control Committee and may be invested by the Control Committee in only such securities as are approved for the investment of Postal Savings deposits by the United States Post Office Department.

4. It is the intention of the parties hereto that the surplus of the Marketing Fund in excess of expenses shall be used by the Control Committee within its sole discretion, but subject to disapproval by the Secretary, to increase consumption of American grown rice, create new markets and to maintain reasonable domestic prices by financing the export of rice.

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ARTICLE VIII—INVESTIGATIONS AND APPEALS

1. Each Miller shall maintain a system or systems of accounting which shall accurately reflect a true account and condition of its business. Each Miller shall furnish such information to the Secretary as the Secretary may request, including information on and in accordance with forms supplied by him.

2. Each Miller's books and records shall, during the usual hours of business, be subject to the examination of the Secretary for the purpose of assisting the Secretary in the furtherance of his duties with respect to this Agreement, including the verification of any information which the Secretary may require any Miller to give.

3. Except as may be necessary in the course of an investigation of a supposed breach of any provision of this Agreement, all information obtained by the Secretary pursuant to this Article shall remain the confidential information of the Secretary, and shall not be disclosed by him except upon lawful demand by the President, by either House of the Congress, or any committee thereof, or by any court. The Secretary, however, may combine and publish the information obtained in the form of general statistical studies or data.

4. If information shall come to the knowledge of any Miller of the violation of any of the terms or conditions of this Agreement by any other Miller, the Miller having such knowledge shall notify the Control Committee of such violation by a written statement containing the charges and all available substantiating evidence.

5. If the Control Committee upon receipt of information from any source shall find therein evidence that a Miller is violating any terms or conditions of this Agreement, it shall thereupon be the duty of the Control Committee to investigate such suspected violation. The Control Committee may call upon said Miller to furnish a statement of the facts under oath.

6. In aid of any investigation with respect to suspected breach of this Agreement by any Miller or with respect to any dispute arising out of this Agreement, the Control Committee may designate a reputable firm of public accountants to examine his books, during the usual business hours, and report upon the matters that shall have been specified in a direction to such accountants. Said direction to the accountants must specifically set forth the matters upon which a report is required and said accountants shall not reveal to the Control Committee any other matters whatsoever disclosed by said examination.

7. After due investigation, if it is the opinion of the Control Committee that a Miller has violated the terms or conditions of this Agreement, it may:

a. Order said Miller to discontinue such violation, and/or. (*sic.*)

b. Collect from said Miller as damages a sum not exceeding twice the profit, if any, realized by such Miller in the transaction in respect of which such violation occurred, or, if such profit cannot be ascertained, not more than $1,000, as liquidated damages. Any moneys collected by the Control Board pursuant to this subsection shall be paid into the Marketing Fund for the general purposes thereof.

c. Report such violation to the Secretary, with or without a recommendation.

If said Miller shall fail to comply with any such order of the Control Committee and/or pay any such damages and shall not take an appeal to the Secretary as hereinafter provided, the Control Committee shall report such non-compliance to the Secretary.

8. An appeal in writing may be taken to the Secretary from any decision of the Control Committee with reference to a dispute or investigation or from any order of or damages assessed by the Control Committee within ten days. Pending the disposition by the Secretary of any appeal the parties involved shall abide by the decision rendered by the Control Committee, unless the Secretary shall rule otherwise pending such disposition. In the event of an appeal, it shall be the duty of the Control Committee to forward to the Secretary the complete record of the Control Committee with regard to the matter.

9. The Secretary may terminate this Agreement as to any Miller if the Secretary determines that said Miller has violated this Agreement, or has failed to comply with any order of the Secretary or the Control Committee or has failed to pay any damages imposed by the Control Committee and confirmed, in the event of an appeal, by the Secretary. The Millers hereby agree that the remedy at law for a violation of this Agreement is inadequate and further agree that the Secretary, or the Control Committee or its officers, or any Miller may institute appropriate proceedings in any court of competent jurisdiction, looking to an order or

decree enjoining the violation of any of the terms or conditions of this Agreement.

10. The Millers expressly request and consent to licensing by the Secretary pursuant to Section 8 (3) of the Act, if and when the Secretary deems such licensing necessary or desirable, and in whatever form the Secretary shall determine.

ARTICLE IX—MISCELLANEOUS

1. If any provision of this Agreement is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this agreement and/or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

2. The Secretary may name any person to act as his agent or representative in connection with the performance of any of his duties hereunder or in connection with the exercise of any of his rights hereunder.

3. Nothing herein contained is or shall be construed to be in derogation or modification of the rights of the Secretary to exercise any powers granted to him by the Act and, in accordance with such powers, to act in the premises whenever he shall deem it advisable.

4. The Control Committee may from time to time propose amendments to or modifications of this Agreement and any such amendment or modification shall become effective at the date designated by the Control Committee, provided such amendment or modification shall have first been approved by Millers who milled more than half of the total rough rice milled during the preceding year, and by the Secretary.

5. No member of any committee or any employee thereof shall be held responsible individually in any way whatsoever to any Miller or any other person, for errors in judgment, mistakes, or other acts either of commission or omission, as such member or employee, except for acts of dishonesty. The liability of the Millers hereunder is several and not joint and no Miller shall be liable for the default of any other Miller.

6. If and when the Secretary determines that compulsory Federal-State grading is necessary to protect the interests of producers of rice, the Millers hereby agree that upon notice by the Secretary, in such manner as he shall determine, they will thereafter purchase no rough rice which is not accompanied by a certificate issued by a Federal-State Grading Office.

ARTICLE X—PARTIES AND TERMINATION

1. Any Miller as hereinabove in Article I defined may become a party to this Agreement on equal terms with the contracting Millers by execution and deposit with the Secretary of a counterpart of this Agreement.

2. This Agreement shall become effective at such date as the Secretary may declare above his signature attached hereto and shall continue in force until terminated in one of the following ways:

a. The Secretary may at any time terminate this Agreement by Agreement, by giving notice by means of a press release, or in any other manner which the Secretary may determine.

b. Upon the written request of Millers, the sum of whose average total production of clean rice over

the period of the last three preceding calendar years equals 75% of the average of the total production of clean rice by all Millers in said years, the Secretary shall, by notice in writing net by registered mail, addressed to the Control Committee, on or before the 20th day of any month, terminate said contract as of the end of such month.

c. This Agreement shall in any event terminate when the provisions of the Act which authorize this Agreement shall cease to be in effect.

3. The benefits, privileges and immunities conferred by virtue of this Agreement shall cease upon its termination except with respect to acts prior thereto, and the benefits, privileges and immunities conferred by virtue of this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done prior thereto.

This Agreement may be executed in multiple counterparts. Each Miller becoming a party to this Agreement by execution of a counterpart shall sign and deposit with the Secretary said counterpart and, if a corporation shall deposit together with said signed counterpart a certified copy of a resolution of its Board of Directors authorizing such signing and delivery. This Agreement together with all counterparts shall constitute one and the same instrument as if all signatures were contained in one original.

In witness whereof the contracting millers, acting under the provisions, of the Agricultural Adjustment Act, and not otherwise, for the purposes and within the limitations herein contained, have hereunto set their respective hands and seals.

Attest:

STEINHAGEN RICE MILLING CO.,
By B. A. STEINHAGEN, *Pres.*

Attest:

NOBLE TROTTER RICE MFG. CO., INC.,
By J. B. TROTTER, *Secy. & Treas.*

Attest:

LA-ARK MILLING CO., INC.,
By AUBREY J. PIC, *Secy. & Treas.*

Attest:

REPUBLIC RICE MILL, INC.,
By GUY LANDRY, *Secy.-Treas.*

Attest:

SIMON'S RICE MILL,
By WALTER SIMON.

Attest:

KAPLAN RICE MILL, INC.,
By B. C. DELAHOUSSAYE, *Pres.*

Attest:

BATON ROUGE RICE MILL, INC.,
By F. J. JUMONVILLE, *Pres.*

Attest:

SMITH RICE MILL CO.,
By G. E. SMITH, *Pres.*

Attest:

WALTON RICE MILL, INC.,
By G. R. WALTON, *Pres.*

Attest:

ARK. RICE GROWERS COOP.,
By H. K. SMITH, *Pres.*

Attest:

ARK. RICE GROWERS COOP.,
DeWitt Div., L. A. BLACK, *Mgr.*

Attest:

UNITED RICE MILLING PRODUCTS CO., INC.,
By F. P. SCHAFER, *Pres.*

Attest:

MOUTON RICE MILLING CO.,
By GEO. C. MOUTON, *Secy.-Treas.*

Attest:

JONESBORO RICE MILL CO.,
By J. T. WHITE, *Operator.*

Attest:

EL CAMPO RICE MILLING CO.,
By R. A. J. JEMBRY, *Secy.-Treas.*

Attest:

NEW IBERIA RICE PRODUCTS, INC.,
By P. A. LANDRY, *President.*

Attest:

LEVY RICE MILLING CO., INC.,
By JAKE LEVY, *Pres.*

Attest:

AMERICAN RICE MILL,
By C. J. FREELAND, *Vice-Pres.*

Attest:

ADOLPH PFEFFER RICE MILLING CO.,
By ADOLPH PFEFFER, *Mgr.*

Attest:

BENJ. DAIGLE RICE MILLS,
By E. T. BEL, *Mgr.*

Attest:

THE BAY CITY RICE MILLS,
By R. Q. PEGRAM.

Attest:

HERDER RICE MILLING CO., INC.,
By R. L. WILLIAMS, *Mgr.*

Attest:

RICE CITY MILLING CO., INC.,
By ALEX. BROWN, *Pres.*

Attest:

RICKERT RICE MILLS, INC.,
By FRED W. RICKERT, *Pres.*

Attest:

ACADIA RICE MILLING CO., INC.,
By J. H. MALAY, *Pres.*

Attest:

MERMENTAU RICE MILLING CO.,
By C. M. C. YOUNCE,

Attest:

TEXAS RICE MILLING CO.,
By J. F. COLEMAN, *Gen. Mgr.*

Attest:

PRITCHARD RICE MILLING CO.,
By P. F. PRITCHARD, *V. P.*

Attest:

TYRRELL RICE MILLING CO.,
By V. O. CLARK.

Attest:

FARMERS RICE MILLING CO., INC.,
By CARL T. HIMEL.

Attest:

DORE RICE MILL,
By A. B. DORE, *Prop.*

Attest:

ESTHERWOOD RICE MILL,
By D. L. SIMON, *Prop.*

Attest:

DIXIE RICE MILL, INC.,
By J. B. HANLAN, *Pres.*

Attest:

LEWIS & PARROTT RICE MILL,
By R. S. PARROTT.

Whereas, it is provided by Section 8 of the Agricultural Adjustment Act approved May 12, 1933, as amended as follows:

> SEC. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—
>
> * * * * *
>
> "(2) To enter into marketing agreements with processors, associations of producers, and others engaged in the handling, in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided,* That no such agreement shall remain in force after the termination of this Act."

Whereas, it appears, after due consideration, that this is a Marketing Agreement between the Secretary and persons engaged in the milling and marketing of rice in the States of Louisiana, Arkansas, Texas, and Tennessee, in the current of interstate and foreign commerce, and

Whereas, it appears, after due consideration, that the aforesaid Marketing Agreement will tend to effectuate the policy of Congress set forth in Section 2 of the Agricultural Adjustment Act in that such Marketing Agreement will:

(a) establish and maintain such balance between the market supply and consumption of rice as will reestablish prices to the producers thereof at a level that will give such agricultural commodity a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such agricultural commodity in the base period, as defined in Section 2 of said Act; and

(b) approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is possible in view of the current consumptive demand in domestic and foreign markets; and

(c) protect the consumer's interest by readjusting the farm production of such agricultural commodity at such level as will not increase the percentage of the consumers' retail expenditures for such agricultural commodity which was returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914.

Now, therefore, The Secretary of Agriculture acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this Agreement under his hand and the official seal of the Department of Agriculture in the City of Washington, District of Columbia, on this 13th day of October 1933.

Pursuant to the provisions hereof, I declare this Agreement to be effective on and after 12:01 A. M. Eastern Standard Time October 16, 1933.

_____,

Secretary of Agriculture.

SCHEDULE 1

The grades used as a basis for this schedule are the United States Standards for Rough Rice. The premiums and discounts named hereinafter shall apply in all cases to all classes in the standards except when special exceptions are made and named.

Premiums apply only in the case of lots of rough rice for which the milling quality estimate for head rice is at least 5 pounds greater than the requirement for the designation Prime.

Discounts apply for each grading factor in the standards. When rough rice is graded lower than No. 1 for two or more factors, or lower than No. 1 for one or more factors and lower than the highest designation for two or more special grades, the accumulated discount shall be applied, in accordance with all of the provisions of the schedule.

For the factor Total Damaged Kernels:

The discount for No. 2 rough rice under No. 1 rough rice shall be 3 percent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 4 percent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 4 percent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 6 percent of the selling price per barrel.

The discount for No. 6 rough rice under No. 5 rough rice shall be 6 percent of the selling price per barrel.

The discount for Sample Grade rough rice under No. 6 rough rice shall be 1 percent of the selling price per barrel for each full percent of total damaged kernels in excess of the percent of total damaged kernels allowed for grade No. 6 up to 5 percent of such excess, and one-half of 1 percent of the selling price per barrel for each full percent of total damaged kernels in excess of 25 percent.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

A discount shall be allowed for either "total damaged kernels" or for "heat damaged kernels" but discounts shall not be allowed for both factors on one lot of rice.

For the factor Heat Damaged Kernels:

The discount for No. 2 rough rice under No. 1 rough rice shall be 2 percent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 2 percent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 2 percent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 2 percent of the selling price per barrel.

The discount for No. 6 rough rice under No. 5 rough rice shall be 2 percent of the selling price per barrel.

The discount for Sample Grade rough rice under No. 6 rough rice shall be 1 percent of the selling price per barrel for each 0.1 percent of heat-damaged kernels in excess of the percent of heat-damaged kernels allowed for grade No. 6 up to 1 percent of such excess, 1 percent of the selling price per barrel for each half of 1 percent or fraction thereof of heat-damaged kernels in excess of 1.1 percent up to 5 percent of such excess, and 1 percent of the selling price per barrel for each 1 percent or fraction thereof of heat-damaged kernels in excess of 6.1 percent.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

A discount shall be allowed for either "total damaged kernels" or for "heat-damaged kernels" but discounts shall not be allowed for both factors on one lot of rice.

For the factor Red Rice:

For the classes Honduras, Edith, Fortune, Carolina, and American Patna.

The discount for No. 2 rough rice under No. 1 rough rice shall be 3 percent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 5 per cent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 5 per cent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 6 per cent of the selling price per barrel.

The discount for No. 6 rough rice under No. 5 rough rice shall be 6 per cent of the selling price per barrel.

The discount for Sample Grade rough rice under No. 6 rough rice shall be one-half of 1 per cent of the selling price per barrel for each full per cent of red rice in excess of the per cent of red rice allowed for grade No. 6.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

For the factor Red Rice:

For the classes Lady Wright, Early Wright, Delitus, Shomed, Blue Rose, Early Prolific, and Louisiana Pearl, and the sub-class Japan.

The discount for No. 2 rough rice under No. 1 rough rice shall be 2 per cent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 3 percent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 4 percent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 6 percent of the selling price per barrel.

The discount for No. 6 rough rice under No. 5 rough rice shall be 6 percent of the selling price per barrel.

The discount for Sample Grade rough rice under No. 6 rough rice shall be one-half of 1 percent of the selling price per barrel for each full percent of red rice in excess of the percent of red rice allowed for grade No. 6.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

For the factor Cereal Grains:

The discount for No. 2 rough rice under No. 1 rough rice shall be 1 percent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 1 percent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 1 percent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 1 percent of the selling price per barrel.

The discount for No. 6 rough rice under No. 5 rough rice shall be 1 percent of the selling price per barrel.

The discount for Sample Grade rough rice under No. 6 rough rice shall be 1 percent of the selling price per barrel for each .1 percent of cereal

grains in excess of the percent of cereal grains allowed for grade No. 6.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

For the factor Rice of Other Classes:

The discount for No. 2 rough rice under No. 1 rough rice shall be 2 percent of the selling price per barrel.

The discount for No. 3 rough rice under No. 2 rough rice shall be 3 percent of the selling price per barrel.

The discount for No. 4 rough rice under No. 3 rough rice shall be 3 percent of the selling price per barrel.

The discount for No. 5 rough rice under No. 4 rough rice shall be 4 percent of the selling price per barrel.

The discount for Mixed rough rice under No. 5 rough rice shall be one-half of 1 percent of the selling price per barrel for each full 1 percent of rice of other classes in excess of the percent of rice of other classes allowed for grade No. 5.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot, except that the total

discount for this factor alone shall not in any case exceed 20 percent of the selling price per barrel.

For the factor Milling Quality—Head Rice:

For the classes Honduras, Edith, Fortuna, Carolina, and American Patna.

For rice for which the estimate of milling yield of head rice is in excess of the requirement for the designation Prime there shall be a premium of 5 percent of the selling price per barrel for each full 5 pounds over the requirement for the designation Prime.

The discount for rough rice of Good milling quality under Prime milling quality shall be 5 percent of the selling price per barrel.

The discount for rough rice of Medium milling quality under Good milling quality shall be 5 percent of the selling price per barrel.

The discount for rough rice of Fair milling quality under Medium milling quality shall be 5 percent of the selling price per barrel.

The discount for rough rice of Ordinary milling quality under Fair milling quality shall be 5 percent of the selling price per barrel.

The discount for rough rice of Low milling quality under Ordinary milling quality shall be 1 per cent of the selling price per barrel for each full pound of head rice between the estimated yield and the requirement for Ordinary milling quality.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of

the inferior lot or part of lot, except that when a discount may be claimed for the factor Moisture or for the factor Weevils the accumulated discount for milling quality shall not exceed 10 per cent of the selling price per barrel.

For the factor Milling Quality—Head Rice:

For the classes Lady Wright, Early Wright, Delitus, Shomed, Blue Rose, Early Prolific, and Louisiana Pearl, and the sub-class Japan.

For rice for which the estimate of milling yield of head rice is in excess of the requirement for the designation Prime there shall be a premium of 3 per cent of the selling price per barrel for each full 5 pounds over the requirement for the designation Prime.

The discount for rough rice of Good milling quality under Prime milling quality shall be 3 per cent of the selling price per barrel.

The discount for rough rice of Medium milling quality under Good milling quality shall be 4 per cent of the selling price per barrel.

The discount for rough rice of Fair milling quality under Medium milling quality shall be 4 percent of the selling price per barrel.

The discount for rough rice of Ordinary milling quality under Fair milling quality shall be 4 percent of the selling price per barrel.

The discount for rough rice of Low milling quality under Ordinary milling quality shall be 1 percent of the selling price per barrel for each full pound of head rice between the estimated yield and the requirement for Ordinary milling quality.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one

special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot, except that when a discount may be claimed for the factor Moisture or for the factor Weevils the accumulated discount for milling quality shall not exceed 10 percent of the selling price per barrel.

For the factor Milling Quality—Total Yield:

The discount for rough rice of B milling quality under A milling quality shall be one and one-half percent of the selling price per barrel.

The discount for rough rice of C milling quality under B milling quality shall be one and one-half percent of the selling price per barrel.

The discount for rough rice of D milling quality under C milling quality shall be one and one-half percent of the selling price per barrel.

The discount for rough rice of E milling quality under D milling quality shall be one and one-half percent of the selling price per barrel.

The discount for rough rice of F milling quality under E milling quality shall be one-half of 1 percent of the selling price per barrel for each full pound of total yield between the estimated total yield and the requirement for E milling quality.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot, except that when

discount may be claimed for the factor Moisture or for the factor Weevils the accumulated discount for milling quality shall not exceed 10 percent of the selling price per barrel.

For the factor Stain:

The discount for Stained rough rice under Bright rough rice shall be 3 percent of the selling price per barrel, except that no discount shall be allowed for stained appearance when a discount may be claimed for the factor Moisture, or for Muddy Kernels, or for Mud Lumps.

For the factor Weevils:

The discount for Weevily rough rice under rough rice free of live weevils shall be 3 percent of the selling price per barrel.

For the factor Musty Odor:

The discount for Musty rough rice under rough rice having a Natural odor shall be 5 percent of the selling price per barrel, except that if a discount is claimed for the factor Moisture no discount may be claimed for Musty odor.

For the factor Moisture:

The discount for Damp rough rice under rough rice containing not more than 14 percent of moisture shall be 3 percent of the selling price per barrel.

The discount for Wet rough rice under Damp rough rice shall be 3 percent of the selling price per barrel.

The discount for Very Wet rough rice under Wet rough rice shall be 1 percent of the selling price per barrel for each full 0.5 percent of moisture in excess of the percent of moisture allowed for the designation Wet.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot, except that if a discount is claimed for the factor Musty Qdor no discount may be claimed for Moisture.

For the factor Weed Seeds:

The discount for Slightly Seedy rough rice under rough rice containing not more than 0.1 percent of weed seeds shall be 3 percent of the selling price per barrel.

The discount for Seedy rough rice under Slightly Seedy rough rice shall be 5 percent of the selling price per barrel.

The discount for Very Seedy rough rice under Seedy rough rice shall be 0.1 percent of the selling price per barrel for each 0.1 percent of weed seeds in excess of the percent of weed seeds allowed for the designation Seedy.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

For the factor Chalky Kernels:

The discount for Slightly Chalky rough rice under rough rice containing not more than 3 percent of chalky kernels shall be 2 percent of the selling price per barrel.

The discount for Chalky rough rice under Slightly Chalky rough rice shall be 3 percent of the selling price per barrel.

The discount for Very Chalky rough rice under Chalky rough rice shall be one-half of 1 percent of the selling price per barrel for each full 1 percent of chalky kernels in excess of the percent of chalky kernels allowed for the designation Chalky.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

For the factor Muddy Kernels and Mud Lumps:

The discount for Slightly Muddy rough rice under rough rice containing not more than 1 percent of muddy kernels and not more than 0.1 percent of mud lumps shall be 3 percent of the selling price per barrel.

The discount for Muddy rough rice under Slightly Muddy rough rice shall be 5 percent of the selling price per barrel.

The discount for Very Muddy rough rice under Muddy rough rice shall be 0.1 percent of the selling price per barrel for each 0.1 percent of mud lumps or each full 1 percent of muddy kernels in excess of the percent of mud lumps or percent of muddy kernels allowed for the designation Muddy.

In case a lot, or part of a lot, of rough rice is of a quality more than one grade, or more than one special designation, below the quality of the rice sold, the discount for the lot or part of lot, as the

case may be, shall be the accumulated discount between the quality of the rice sold and the quality of the inferior lot or part of lot.

APPENDIX

I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under the Agricultural Adjustment Act, approved May 12, 1933, as amended, and pursuant to Article 4, Section 2 of the Marketing Agreement for rice milled in the States of Texas, Arkansas, Louisiana and Tennessee, entered into by certain rice millers in the States of Texas, Arkansas, Louisiana and Tennessee, and the Secretary of Agriculture, effective October 16, 1933, do hereby fix the price per barrel of 162 pounds of number 1 prime milling quality rough rices as follows: Early Prolific $2.75; Japan $2.85; Blue Rose $3.15; Lady Wright $3.15; Edith $3.40; Fortuna $3.45; Rexoro $3.50.

In witness whereof I have hereunto set my hand and the official seal of the Department of Agriculture affixed in the City of Washington, District of Columbia, on this 14th day of October, 1933.

H. A. WALLACE,
Secretary of Agriculture.

PART E

Statistical Data Compiled from Department of Agriculture Reports, showing Monthly Farm Prices of Louisiana Rice and Wholesale Price of Clean, Fancy Blue Rose Rice (Tables I, II, and III):

TABLE I.—*Monthly Farm Prices of Louisiana Rice, 1923 to Date*[1]

[In Dollars Per Barrel]

Year	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July
1923-24	3.71	3.89	4.00	3.85	3.82	3.96	4.00	3.89	4.03	4.68	4.86	4.93
1924-25	4.75	4.64	4.61	4.72	5.08	5.18	5.08	5.00	4.97	5.11	5.36	5.40
1925-26	5.26	5.15	5.18	5.47	5.51	5.54	5.40	5.15	4.72	4.93	5.08	5.26
1926-27	4.43	4.25	4.03	3.92	3.74	3.85	3.89	3.74	3.78	3.74	3.76	3.74
1927-28	[illegible]											
1928-29	3.20	3.06	3.20	3.28	3.42	3.38	3.42	3.46	3.31	3.35	3.38	3.38
1929-30	3.53	3.56	3.53	3.46	3.53	3.56	3.85	3.71	3.85	3.82	3.74	3.56
1930-31	3.17	2.88	2.95	2.74	2.63	2.74	2.81	2.74	2.77	2.66	2.66	2.63
1931-32	2.02	1.69	1.84	2.16	2.12	2.02	1.91	1.87	1.76	1.76	1.73	1.66
1932-33	1.69	1.48	1.48	1.44	1.44	1.37	1.30	1.44	1.51	2.02	2.02	2.20
1933-34	2.23	2.45	2.77	2.74	2.70	2.74	2.84	2.84	2.84	2.74	2.77	2.70
1934-35	2.84	2.52	2.77	2.95	2.81	2.77	2.95	3.06	3.10	3.13	3.24	3.17
1935-36	2.66	1.73	1.98	2.34	------	------	------	------	------	------	------	------

[1] Average spot prices, as of the 15th of the month.

SOURCE: Bureau of Crop Estimates, United States Department of Agriculture, data from August 1923–November 1934, published in December 1934 in *Crops and Markets*. Subsequent data published December 11, 1935, in Average Prices Received by Louisiana Farmers for Rice (Rough) September, 1934 to date. These quotations are published in terms of "cents per bushel" of 45 pounds and have been converted to a barrel of 162 pounds on the basis of 3.6 bushels to 1 barrel.

TABLE II.—*Rice, Blue Rose, Clean, Fancy: Wholesale Price Per Pound, New Orleans, by Months, 1924–25 to Date*

[In Cents Per Pound]

Year	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Average
1924–25	6.62	6.38	5.88	6.40	6.56	6.85	6.88	6.75	6.69	7.12	7.38	7.50	6.75
1925–26	7.12	6.62	6.62	7.12	7.19	7.38	7.05	7.00	6.88	7.00	6.88	6.88	6.98
1926–27	6.75	6.00	5.62	5.12	5.00	4.88	4.88	4.81	4.62	4.88	5.05	4.62	5.19
1927–28	4.62	4.62	4.25	3.88	4.00	4.00	3.81	3.75	4.00	4.38	4.50	4.25	4.17
1928–29	4.25	------	4.06	4.12	4.12	4.05	4.00	4.00	4.00	4.00	4.00	4.12	[1] 4.07
1929–30	4.50	4.25	4.25	4.00	3.94	4.25	4.38	4.50	4.38	4.62	4.50	4.50	4.34
1930–31	4.50	4.12	3.88	3.62	3.62	3.50	3.62	3.50	3.50	3.50	3.38	3.38	3.68
1931–32	3.25	3.12	2.88	2.94	2.94	2.84	2.66	2.47	2.28	2.12	2.21	2.00	2.64
1932–33	2.08	2.26	2.14	2.01	1.94	1.89	1.81	1.96	2.09	2.65	2.79	2.89	2.21
1933–34	3.18	3.45	3.75	3.80	3.87	3.90	3.90	3.90	3.90	3.90	3.90	3.83	3.78
1934–35	3.74	3.70	3.68	3.55	3.57	3.42	3.38	3.64	3.76	3.95	4.08	4.16	3.72
1935–36	4.07	4.10	4.28	4.52	------	------	------	------	------	------	------	------	------

[1] Average for 11 months.

SOURCE: 1935 United States Department of Agriculture Year Book, page 420, August 1924–December 1934. Prices from January 1935, from weekly *Market News Service*, United States Department of Agriculture.

TABLE III.—*Mathematical computation based on Tables I and II, showing Calculated Spread Between Fancy Blue Rose, New Orleans, and Monthly Louisiana Farm Price Cents per pound or Dollars per 100 pounds*

Year	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July
1923–24	.85	1.23	1.50	1.40	1.06	1.29	1.25	1.73	1.83	1.44	1.26	1.57
1924–25	1.87	1.74	1.27	1.68	1.48	1.67	1.80	1.75	1.72	2.01	2.02	2.10
1925–26	1.86	1.47	1.44	1.65	1.68	1.84	1.65	1.85	2.16	2.07	1.80	1.62
1926–27	2.32	1.75	1.59	1.20	1.26	1.03	.99	1.07	.88	1.14	1.29	.86
1927–28	1.45	1.45	1.08	.71	.72	.76	.76	.51	.69	.92	.97	.90
1928–29	1.05	------	.86	.84	.70	.67	.58	.54	.69	.65	.62	.74
1929–30	.97	.69	.72	.54	.41	.69	.53	.79	.53	.80	.76	.78
1930–31	1.33	1.24	.93	.88	.99	.76	.81	.76	.76	.84	.72	1.05
1931–32	1.23	1.43	1.04	.78	.82	.82	.75	.60	.52	.36	.48	.34
1932–33	.39	.78	.53	.57	.50	.52	.51	.58	.58	.63	.77	.69
1933–34	.95	1.00	.98	1.06	1.17	1.16	1.06	1.06	1.06	1.16	1.13	1.08
1934–35	1.10	1.18	.91	.60	.76	.65	.43	.58	.66	.82	.84	.99
1935–36	1.41	2.37	2.30	2.18	------	------	------	------	------	------	------	------

PART F

CONGRESSIONAL RECORD, 74TH CONG., 1ST SESS., VOL. 79, No. 169, PP. 13700, 13701–13702

[Senator Smith, Chairman of the Senate Committee on Agriculture and Forestry, submitted the Conference Report to the Senate, which was agreed to by the Senate on August 15, 1935. In the discussion in the Senate prior to the final vote of agreement accepting the Conference Report, the following pertinent statements were made by various members of the Senate:]

Mr. BORAH. Mr. President, before the report is acted upon, I desire to see if I understand it.

Referring to amendment no. 114, the House has receded from its disagreement to the Senate amendment, and has agreed to it with an amendment, as follows:

(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax) unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice

by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court—

And so forth.

The question with me is, What is the modus operandi by which the party desiring to recover finally reaches court in case he desires to go to court?

Mr. SMITH. As it was discussed by the legal representatives, both of the Department and those who claim that distinction on the committee, wherever one had a claim, according to the custom under the law as it now prevails in reference to a rebate or refund of a tax, he goes before the internal-revenue collector and states his case. After the matter was discussed at some length, the members of the committee decided not to restrict the plaintiff to matters upon which the Commissioner either allowed or rejected the claims, but the whole record as it appeared before him should be the basis of the

claimant going into court. He can reject any finding of the Commissioner, unless it is in accordance with his claim, and go before a court of competent jurisdiction, and, upon the record as it is set up, he can prosecute his case.

* * * * * *

Mr. KING. Mr. President, I join in the request of the Senator from Idaho. May I call the attention of the Senator from Idaho to this language in the section to which the Senator referred, namely:

"Neither the claimant nor any person directly or indirectly under his control or having control over him has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on"—

This is the point—

"any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing"—

And so forth. Which would mean that if the Government had, as he believed, illegally collected a thousand dollars, and he demonstrated that he had not passed on any part of it except $1, he then would be denied relief under the interpretation of that language.

* * * * * *

Mr. GEORGE. Mr. President, I desire to be heard on that point.

I do not wish to have an incorrect interpretation placed upon the bill. The interpretation placed upon it by the Senator from Utah is not correct. At first blush, it

seemed to me to be the proper interpretation; and when we were considering this matter originally in the Senate that was my conclusion. A careful reading of the language, however, will disclose that the interpretation is not correct.

If the Senator will bear with me, I will read:

"No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for, any amount of any tax"—

The "amount of any tax" refers back to that original subject, and it is not subject to the interpretation which seems to be about to be accepted here. *I wish the* RECORD *to show what is the correct interpretation of the language as I construe it.*

* * * * *

Mr. President, the amendment is not all that I desire, but I believe it preserves at least some legal rights of the claimant to a refund or to a credit for a tax illegally collected or a tax improperly collected. In my judgment, "the amount of any tax" refers back to the original language at the beginning of this particular section.

I desire to call attention to the fact that this is not a provision for authority for the claimant to sue. It is no grant of the right to sue. It is nothing but a limitation upon that right. In my judgment, it would not be strictly or technically construed by any court. It would be given a fair and a liberal interpretation. Therefore, if the claimant should make out a just case and secure a judgment of $500 for taxes illegally collected, I cannot believe the court would then deny a judgment simply because the claim-

ant had passed on a small amount of the $500 to the ultimate consumer, because I think it would be construed as it properly is—merely a limitation upon a right otherwise existing, and merely a condition.

I, myself, wish very much that the broad, unrestricted right of the claimant to come into court might have been given without so many hedging phrases and so much language; but, looking to what the court would ultimately do with this section, I have no doubt that a substantial right is given. It it true that the claim must first be made before the Commissioner of Internal Revenue, but that is true now in many instances. That was true under the revenue act which permitted a claim for refund for unsold automobile parts, and it is also true even in the administration of veterans' legislation. Before any suit may be commenced or maintained upon a policy of insurance, the veteran must make out his case and obtain an affirmative approval or disapproval of his alleged cause of action by the Administrator of Veterans' Affairs.

Properly construed, the real purpose, whether it be always properly administered, is to give the Government opportunity to settle a just case when all of the facts have been made to appear. Although the Commissioner of Internal Revenue is a political officer, of course, and generally is disposed to construe an act favorably to the Government, nevertheless, in many instances the facts are found properly, correctly, and justly, and the Government is enabled to make refunds without the necessity of further court action upon the record actually made up. (Italics supplied.)

PART G

The following is a list of cases decided since the adoption on August 24, 1935, of the Amendments to the Agricultural Adjustment Act by District courts or Circuit Courts of Appeals, in which it was sought to restrain the collection of processing taxes, together with a summary of the Court's views on the questions considered:

In *Henrietta Mills* v. *Hoey,* 12 Fed. Supp. 61 (S. D., N. Y.), decided September 5, 1935, it was held (1) that Sec. 3224 bars suit, exceptional circumstances not being present; (2) that Sec. 21 (d) (1) affords an adequate remedy, since the court would not assume that it will be unfairly administered by an executive officer; (3) that Sec. 21 (a) (2) takes away power to render a declaratory judgment.

In *Merkel, Inc.,* v. *Rasquin,* 12 Fed. Supp. 215 (E. D., N. Y.), decided September 5, 1935, it was held (1) that Sec. 3224 bars suit, exceptional circumstances not being present; (2) that the legislative threat of the removal of all right to sue for refunds had been removed.

In *Jedd Jones, Jr.,* v. *Viley,* 3 U. S. Law Week. 119 (Idaho), decided September 6, 1935, it was held (1) that Sec. 3224 bars suit, and that the remedy at law is adequate; (2) that the jurisdiction to render declaratory judgments had been removed.

In *Queen City Cotton Co.* v. *Martin,* 3 U. S. Law Week. 119 (Vt.), decided September 7, 1935, it was

held (1) that the entire Agricultural Adjustment Act was constitutional on the grounds that since it was not entirely clear that the Act was invalid the court thought it should not declare against constitutionality; (2) that Sec. 3224 bars the suit; (3) that Sec. 21 (d) (1) affords an adequate remedy at law.

In *Jose Escalante & Co.* v. *Fontenot,* 79 F. (2d) 343 (C. C. A. 5th), decided September 13, 1935, the court refused application for a temporary injunction on the ground that taxpayer has a plain and adequate remedy under the Agricultural Adjustment Act, as amended.

In *G. B. R. Smith Milling Co.* v. *Thomas,* 11 Fed. Supp. 833 (N. D., Tex.), decided September 20, 1935, it was held that Sec. 21 (d) (1) does not provide an adequate remedy at law, and that for that reason Sec. 3224 is inapplicable.

In *Meridian Grain & Elevator Co.* v. *Fly,* 12 Fed. Supp. 64 (S. D., Miss.), decided September 21, 1935, it was held (1) that Sec. 3224 bars the suit; (2) that Sec. 21 (d) (1) affords an adequate remedy; (3) that a multiplicity of suits is not present; (4) that unusual circumstances or exceptional hardship have not been shown; (5) that jurisdiction to render a declaratory judgment has been removed.

In *Fisher Flouring Mills Co.* v. *Vierhus,* 78 F. (2d) 889 (C. C. A. 9th), decided August 24, 1935, the court denied plaintiff's application for a temporary injunction on the ground that Sec. 3224 of the Revised Statutes barred injunctive relief.

In *Merchants Packing Co.* v. *Rogan,* 79 F. (2d) 1 (C. C. A. 9th), decided September 24, 1935, the court granted a temporary injunction pending appeal. The court distinguished the former decision

in *Fisher Flouring Mills* cases by saying " The situation is changed by amendment to the law affecting the remedy of a taxpayer to recover an invalid tax."

In *Baltic Mills Co.* v. *Bitgood,* 12 Fed. Supp. 132 (Conn.), decided August 28, 1935, it was held that Sec. 3224 does not bar suit because (1) Sec. 21 (d) (1) does not afford an adequate remedy, and (2) under that section a multiplicity of suits would be necessary. The court overlooked Sec. 21 (a) entirely, but considered its applicability in *Grosvenor-Dale Co.* v. *Bitgood, infra.*

In *Grosvenor-Dale Co.* v. *Bitgood,* 3 U. S. Law Week 84 (Conn.), decided September 26, 1935, it was held (1) that Sec. 3224 does not preclude all equitable relief; (2) that Sec. 21 (d) (1) does not provide an adequate remedy; (3) that Sec. 21 (a) removed all jurisdiction to grant injunctive relief in processing-tax suits. (Compare the court's decision in *Baltic Mills Co.* v. *Bitgood,* supra, where Sec. 21 (a) was overlooked.) On October 16, 1935, this opinion was modified, restraining the collection of taxes imposed on or before August 24, 1935.

In *Stratton & Co.* v. *Gagne,* 3 U. S. Law Week 119 (N. H.), decided September 28, 1935, it was said that on the particular allegations of plaintiff's bill of complaint, exceptional circumstances taking the case out of operation of Sec. 3224 were not shown.

In *Kingan & Co.* v. *Smith,* not yet officially reported (S. D. Ind.), decided September 30, 1935, it was held (1) that Sec. 3224 is declaratory of the common law; (2) that Sec. 21 (d) (1) does not provide an adequate remedy; (3) that a motion to

dismiss admits facts establishing factual basis for remedial inadequacy of law; (4) that a multiplicity of suits would be necessary under 21 (d) (1).

In *Larabee Flour Mills Co.* v. *Nee,* 1935 C. C. H., Vol. III–A, ¶ 9584, 132 (W. D., Mo.), decided October 3, 1935, it was held (1) that Sec. 3224 does not bar suit unless remedy at law is "clear and unquestioned"; (2) that motion to dismiss admits the truth of allegations of processor as to factual impossibility of showing whether the tax has been passed on—hence 21 (d) (1) does not afford an adequate remedy; (3) that the original act is unconstitutional because of delegation of legislative power; (4) that the ratification is ineffectual to validate taxes imposed before the amendment; (5) that the amended act cures prospectively the delegation of power and is valid; (6) that Congress may tax for the general welfare, which power is not limited to the effectuation of the enumerated powers.

In *G. M. Peet Packing Co.* v. *Kavanagh,* not yet officially reported (E. D., Mich.), decided October 15, 1935, the court held that Sec. 21 (d) (1) did not provide an adequate remedy principally on the ground that the processor would be denied a trial by jury, and that the record before the Commissioner, so far as the truth or untruth of the evidence is concerned, would bind the court.

In *A. P. W. Paper Co.* v. *Riley,* 3 Law Week 133 (N. D., N. Y.), decided October 18, 1935, the court held (1) that the original act is unconstitutional; (2) that Sec. 3224 does not bar suit; (3) that Sec. 21 (d) (1) does not provide an adequate remedy; (4) that if either Sec. 3224 or 21 (a) be construed as

denying all access to equity court, relegating defendant to inadequate remedy at law, it is unconstitutional; (5) that the amended Agricultural Adjustment Act does not cure the delegation of power and is unconstitutional, ratification being ineffective because act is invalid on grounds other than delegation; (6) that Sec. 21 (d) (1) is faulty in denying a trial *de novo* on a new record in District Court; (7) that exceptional circumstances exist.

In *Gold Medal Foods* v. *Landy,* not yet officially reported (D. C., Minn.), decided October 22, 1935, it was held (1) that Sec. 21 (a) is no broader than Sec. 3224 (Note: The taxes involved all accrued prior to the amendment), because Congress wished only to make it clear that the prohibition against injunctive relief applied in tax cases despite allegations that the processing levy was not a tax at all, and Congress did not intend to do away with equity jurisdiction if the relief it set up in 21 (d) (1) was inadequate; (2) that the possibility that taxpayer may recoup a payment from third party is not sufficient to oust equity jurisdiction; (3) that Sec. 21 (d) (1) provides an inadequate remedy, because it is indefinite and uncertain, and open to objection because the District Court does not try the case *de novo.*

In *Danahy Packing Co.* v. *McGowan,* 11 Fed. Supp. 920 (W. D., N. Y.), decided October 24, 1935, it was held that Sec. 21 (d) (1) does not provide an adequate remedy, on the premise that the motion to dismiss admits factual impossibility to prove tax was not passed on. The court also expressed grave doubt as to whether 21 (d) is constitutional.

In *Anton Rieder* v. *Rogan,* not yet officially reported (S. D., Cal.), decided October 28, 1935, it was held (1) that the Agricultural Adjustment Act is constitutional; (2) that Sec. 3224 is applicable, exceptional circumstances not being shown, and the fact that Congress might not appropriate funds to discharge established refund claim being irrelevant; (3) that Sec. 21 (a) prevents injunctive relief as well as Sec. 3224; (4) that Sec. 21 (d) (1) provides an adequate remedy, since difficulty of proof is not a basis of equity jurisdiction, and that if 21 (d) is an impossible burden it is invalid, and taxpayer may disregard it in a suit for refund; (5) that multiplicity of suits would not be necessary, since the issue could be conveniently tested in one suit by the one person, and prevention of a series of suits for periodic trespasses in collection of tax is not sufficient; (6) that no jurisdiction exists to grant a declaratory judgment.

In *Frye & Co.* v. *Vierhus,* not yet officially reported (W. D., Wash.), decided November 2, 1935, it was held (1) that Congress is free to regulate a suit against the United States in all its aspects; (2) that Sec. 21 (d) (1) must be construed as only applicable to a suit against the United States, and that if applicable to a suit against the collector it is invalid; (3) that right to sue the collector is unimpaired; (4) that taxpayer's remedy at law is plain and adequate.

In *Louisville Provision Co.* v. *Glenn,* not yet officially reported (W. D., Ky.), decided November 5, 1935, it was held (1) that no exceptional circumstances removing the case from operation of Sec. 3224 are shown; (2) that Sec. 21 (d) (1) affords complete remedy (on authority of *Jefferson Elec-*

tric Co., 291 U. S. 386); (3) that jurisdiction to render declaratory judgments had been removed.

In *Porto Rican American Tobacco Co.* v. *Tait,* not yet officially reported (Porto Rico), decided November 18, 1935, it was held (1) that Sec. 3224 barred the suit; (2) that the remedy provided by Sec. 21 (d) (1) is adequate.

In *Shenandoah Milling Co.* v. *Early,* 3 Law Week 119 (W. D. Va.), decided September 23, 1935, it was held (1) that Sec. 3224 is only declaratory of the common law; (2) that Sec. 21 (d) (1) does not afford an adequate remedy, it being factually impossible for processor to meet its requirements; (3) that the Government is in no position to urge "unjust enrichment" of processor; (4) that exceptional circumstances exist.

In *Inland Milling Co.* v. *Huston,* not yet officially reported (S. D. Iowa), decided November 22, 1935, it was held that (1) Sec. 3224 does not bar injunctive relief; (2) that Sec. (d) (1) does not give an adequate remedy.

In *John A. Gebelein, Inc.,* v. *Milbourne,* 12 Fed. Supp. 105, 121 (Md.), decided October 1, 1935, it was held that (1) the ratification is ineffectual because the Agricultural Adjustment Act is invalid on grounds other than delegation; (2) that Sec. 21 (a), as applied to taxes accruing prior to amendment, did not alter Sec. 3224, the court indicating the view that with respect to taxes accruing prospectively, Sec. 21 (a) is absolute in denying injunctive relief; (3) that Sec. 21 (d) (1) gives no adequate remedy because taxpayer is required to show more than mere fact that tax has been passed on. It is factually impossible for taxpayer to make the necessary proof, and Sec. 21 (d) (1) is faulty in denying trial

de novo in District Court; (4) that it is doubtful that Sec. 3224 has any application to processing-tax suits; Congress may have intended the amendments to substitute a completely new system of "corrective justice"; (5) that if Sec. 3224 is still applicable, nevertheless, the instant proceeding came within exception of unusual circumstances, since Sec. 21 (d) (1) provided a wholly inadequate remedy.

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